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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,817	09/11/2003	David Neff	MLCZ 2 00106	5262

7590 06/15/2005

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EXAMINER

KASTLER, SCOTT R

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,817	Applicant(s) NEFF, DAVID	
	Examiner Scott Kastler	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Handwritten signature/initials

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 5, 13-16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Stankiewicz. Stankiewicz teaches an apparatus (43) for filtering molten metal in molten metal transport conduits, including dosing tubes, (see col. 3 lines 24-27 for example) including a mounting portion (11) which can be “dimensioned” to fit around and mounted to a dosing tube through it’s annular portions (13) the filter body (21) including a cylindrical body (29) and planar surface (27, 31) attached to, and substantially covering the flat end (15) of the mounting portion (11) , thereby defining a closed filtering surface area (enclosed body), where the filter is advantageously made of ceramic particles, including silicon carbide or aluminum oxide, bonded with an aluminum alloy resistant glass binder (see col. 7 lines 60-65 for example), thereby showing all aspects of the above claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stankiewicz. Stankiewicz teaches an apparatus (43) for filtering molten metal in molten metal transport conduits, including dosing tubes, (see col. 3 lines 24-27 for example) including a mounting portion (11) which can be dimensioned to fit around and mounted to a dosing tube through its annular portions (13) the filter body (21) including a cylindrical body (29) and planar surface (27, 31) attached to, and substantially covering the flat end (15) of the mounting portion (11), thereby defining a closed filtering surface area (enclosed body), where the filter is advantageously made of ceramic particles, including silicon carbide or aluminum oxide, bonded with an aluminum alloy resistant glass binder (see col. 7 lines 60-65 for example), thereby showing all aspects of the above claims except that the cylindrical portion of the filter have a beveled end to which the planar surface is attached. However, the filter apparatus of Stankiewicz operates in substantially the same manner with substantially similar stated results as the instant filter configurations. It has been well settled that where the applied prior art teaches a claimed apparatus or component (in the instant case, the filter), absent any demonstrated new or unexpected results arising therefrom, motivation to alter the shape or configuration of the apparatus or component already taught by the applied prior art, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV B, and *In re Dailey*, 149 USPQ 47. In the instant case, since no new or unexpected result has yet been shown to arise from the use of a filter configuration including a beveled end as instantly claimed, motivation to alter the filter shape of the filter (21) of Stankiewicz, to any desired shape or configuration, including the shape recited in instant claim 6, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

Response to Arguments

Applicant's arguments filed on 5/4/2005 have been fully considered but they are not persuasive. Applicant's arguments that Stankiewicz does not teach a beveled surface as recited in instant independent claim 1, and that such a beveled surface imparts improved properties to the filter is not persuasive because these asserted improved properties have not yet been presented in proper declaration or affidavit form, and it has been well settled that arguments and conclusory statements alone are insufficient to establish new or unexpected results. See *In re Wood et al*, 199 USPQ 137.

Applicant's further argument that Stankiewicz does not teach "dimensioning" the filter to attach or surround a dosing tube is not persuasive because without any recitation of either the dosing tube structure (which means any conceivable shape or size dosing tube would meet the instant claim requirements), or recitation of the specific manner in which the filter structure is modified to be able to attach or fit around the dosing tube, any configuration of filter would in some manner be able to either fit around or attach to some unspecified dosing tube.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

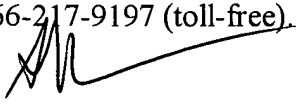
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Scott Kastler
Primary Examiner
Art Unit 1742

sk